

REMARKS

Claims 1, 2 and 11-22 are pending in the application. The Examiner rejected Claims 1, 2 and 11-22 under 35 U.S.C. §112, first paragraph. The Examiner maintains his rejection of Claims 1, 2 and 12-22 under 35 U.S.C. §103(a) as being unpatentable over Sawashashi et al. (EP 0 682 418 A2) in view of Bruckert (U.S. Patent 5,751,763), and further in view of Van Kerckhove (U.S. Patent 5,812,599).

Regarding the 35 U.S.C. §112, first paragraph rejection, and the Examiner's statement that the recitation of Claims 1, 11, 12, 14 and 22 that said reference value is initially equal to a required signal to noise ratio is allegedly unsupported in the Specification, the Examiner is respectfully directed to the following citations in the Specification where this element can be found, namely: page 8, line 4; 16, line 16; page 17, lines 2 and 11. As the elements recited in the claims are in fact supported in the Specification, withdrawal of the rejections of Claims 1, 11, 12, 14 and 22 is respectfully requested.

Please note that the Examiner has not included any analysis of Claim 11. It is respectfully requested that the Examiner provide a proper analysis of Claim 11, or in the alternative, allow Claim 11 as currently pending.

With respect to the rejections of independent Claims 1, 12, 14 and 22, the Examiner states that Sawashashi et al. in view of Bruckert and further in view of Van Kerckhove discloses the elements recited in the claims. The Examiner states that the arguments in the Response filed on October 7, 2003 are moot in view of the new grounds of rejection, even though the Examiner continues to cite the same references for the same reasons as argued against in the October 7 Response. It is respectfully submitted that the references still do not teach or disclose the elements recited in the independent claims. Applicants also respectfully disagree with the Examiner that the arguments are moot. The Examiner not only cites the same references, but refers back to the March 12, 2003 Office Action for their statement. The arguments of the October 7 Response are still valid, and it is respectfully requested that the Examiner formally

address the arguments presented in the October 7 Response as required.

It is respectfully again submitted that each of the independent claims recites that a base station changes a reference value for reverse closed loop power control. The Examiner states that the "P(T)" of Sawashashi et al. is a changing reference value, and therefore renders the claims unpatentable. The Examiner is taking a broad reading of "reference value" in both the claims of the present application and the cited reference. The present application clearly states that a reference value is defined as $\theta_1 = (E_c/N_0)_{\text{required}}$, or fractions thereof. On the other hand, Sawashashi et al. states that P(T) is a calculated value, and that its reference value is P_{max} , which is a fixed value. Therefore, by substituting the alleged reference value of Van Kerckhove into Sawashashi et al. will not result in the recitations contained in Claims 1, 12, 14 and 22. Based on at least the foregoing, withdrawal of the rejections of Claims 1, 11, 12, 14 and 22 is respectfully requested.

Further, the Examiner has made only a cursory rejection of dependent Claims 2, 13 and 15-20, as contained in the March 12, 2003 Office Action. As the Examiner has not provided any analysis of these claim as required under 37 C.F.R. 1.104(c), it is respectfully submitted that since the Examiner cannot maintain or clearly articulate any rejections for these claims, these claims must contain allowable subject matter. Allowance of Claims 2, 13 and 15-20 is respectfully requested.

As a footnote, please note that many of the laws, rules and/or regulations recited in the Office Action were in fact outdated as of the date of the Office Action. As this may cause confusion in certain cases, it is respectfully requested that if the Examiner is to provide laws, rules and/or regulations in the Office Action, that those laws, rules and/or regulations be current as of the date of the Office Action.

Independent Claims 1, 11, 12, 14 and 22 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 13 and 15-21, these are likewise believed to be allowable by virtue of their dependence on their respective independent

claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 13 and 15-21 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 2 and 11-22, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the typed name.

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